United Nations Convention on the Law of the Sea CLCS/36

Commission on the Limits of the Continental Shelf

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Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission

1. The twelfth session of the Commission on the Limits of the Continental Shelf was held at United Nations Headquarters, New York, from 28 April to 2 May 2003, pursuant to its decision taken at the eleventh session (CLCS/34, para. 41) and paragraph 22 of General Assembly resolution 57/141 of 12 December 2002.

2. The following 19 members of the Commission attended the session: Hilal Mohamed Sultan Al-Azri, Alexandre Tagore Medeiros de Albuquerque, Osvaldo Pedro Astiz, Lawrence Folajimi Awosika, Harald Brekke, Galo Carrera Hurtado, Peter F. Croker, Indurlall Fagoonee, Noel Newton St. Claver Francis, Mihai Silviu German, Abu Bakar Jaafar, Mladen Juračić, Yuri Borisovitch Kazmin, Yong-Ahn Park, Fernando Manuel Maia Pimentel, Philip Alexander Symonds, Kensaku Tamaki, Naresh Kumar Thakur and Yao Ubuènalè Woeledji.

3. Samuel Sona Betah did not attend the session. Mr. Wenzheng Lu communicated to the Chairman of the Commission that, despite his and his Government's efforts, he could not attend the session due to circumstances beyond his control.

4. The Commission had before it the following documents:

- Provisional agenda (CLCS/L.15);
- Rules of Procedure of the Commission on the Limits of the Continental Shelf (CLCS/3/Rev.3 and Corr.1);
- Modus Operandi of the Commission (CLCS/L.3);
- Consolidation of the text of the Rules of Procedure of the Commission on the Limits of the Continental Shelf: Suggestions by the Secretariat (CLCS/2003/CRP.1);
- Draft consolidated rules of procedure of the Commission on the Limits of the Continental Shelf, prepared by the Secretariat (CLCS/2003/CRP.2);

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– The legal nature and purpose of the recommendations of the Commission on the Limits of the Continental Shelf: Discussion paper prepared by the Secretariat (CLCS/2003/CRP.3),

as well as other material and draft proposals submitted by the members of the Commission and the Secretariat.

5. The meeting was opened by the Chairman of the Commission, Peter Croker. The Chairman proposed the draft agenda (CLCS/L.15) for consideration by the Commission and suggested that the agenda should be amended to include a new item entitled "Consolidation of the Rules of Procedure of the Commission". In the absence of objections, the agenda was adopted as amended (CLCS/35).

6. Subsequently, the Chairman outlined the programme of work and the schedule for the Commission's deliberations on the various items listed in the agenda.

7. In accordance with rule 10 of the Rules of Procedure of the Commission (CLCS/3/Rev.3 and Corr.1), each member of the Commission, before assuming his functions, is required to make a solemn declaration in regard to the performance of his duties in the Commission. Osvaldo Pedro Astiz and Yao Ubuénalé Woeledji, who did not attend the eleventh session, made the solemn declaration at a ceremony organized for the occasion.

8. Under the agenda item related to the consolidation of the Rules of Procedure of the Commission, the Commission discussed various proposals, including the proposals for the consolidation of the basic procedural and operational documents of the Commission (Rules of Procedure, CLCS/3/Rev.3 and Corr.1), modus operandi (CLCS/L.3) and internal procedure of the subcommission of the Commission on the Limits of the Continental Shelf (CLCS/L.12). The proposed consolidated text was contained in one document (CLCS/2003/CRP.2). It was recalled that this effort had been undertaken with a view to considering amendments of an editorial nature in order to eliminate any inconsistencies among the documents, which existed because the documents had been drafted at various stages of the Commission's work, or to make certain existing provisions more precise. It was further recalled that the Commission had decided at its previous session that the Scientific and Technical Guidelines should not be subject to such a review and that the review of the procedural documents should be limited to editorial issues and should not lead to the revision of their provisions (CLCS/34, para. 36). After a discussion, the Commission decided to proceed with the consolidation into one document of the provisions of an "operational" nature formerly contained in the modus operandi and in the internal procedure of the subcommission, and to harmonize the new document with the Rules of Procedure of the Commission. The Commission also decided to make editorial amendments to the Rules of Procedure and to reissue the Rules. It entrusted the Editorial Committee, under the chairmanship of Harald Brekke, to proceed with the review of these documents during the session.

9. Addressing the agenda item dealing with the issues of confidentiality in the consideration of the submissions and contents of the recommendations made by the Commission to the coastal States, the Commission took note of the discussion paper prepared by the Secretariat concerning the legal nature and purpose of the recommendations of the Commission (CLCS/2003/CRP.3). During the deliberations, the members of the Commission discussed the potential need for additional rules or internal guidelines in the light of the relevant provisions of the United Nations

Convention on the Law of the Sea of 10 December 1982 (UNCLOS), the current Rules of Procedure and the Commission's practice. In particular, the Commission considered it useful to address potential concerns of States having an interest in determining whether the coastal State had in fact applied the Commission's recommendations in the delineation of the outer limits of its continental shelf.

10. The Commission concluded that a solution would be for the Commission to establish, in its document dealing with the modus operandi for the examination of a submission, that the recommendations should include an executive summary, containing a general description of the extended continental shelf, as well as a set of coordinates to identify the line describing the outer limits recommended by the Commission and illustrative charts, if appropriate. Such a summary would not contain information which might be of a confidential nature or which might affect the proprietary rights of the coastal State over the data and information provided in the submission. The Secretary-General would then be in a position to publicize the summary at his discretion, without causing any prejudice to the requirements of confidentiality as established in annex II to the Rules of Procedure. This could be done at the time when due publicity was to be given, in accordance with article 76, paragraph 9, of UNCLOS, to charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf, deposited by the coastal State with the Secretary-General. It could also be done at the request of any State. The Commission then instructed the Editorial Committee to address the issue as part of its work on basic documents and prepare a draft provision on the contents of the recommendations.

11. The Commission also set up an informal working group with Mr. Carrera, Mr. Fagoonee and Mr. Symonds as members, to consider issues related to the detailed scientific work of the Commission. The group reported back to the Commission.

12. The Commission took note of the suggestions made by the informal working group. It concluded that, at the current stage, there was no need to amend the Scientific and Technical Guidelines or to make any formal commentary or addendum to it.

13. Under the agenda item entitled "Training issues and the preparation of the training manual", the Commission was informed by the Secretariat on the status of preparation of the manual. The Secretary recalled that the manual was being prepared in accordance with the decision of the Commission taken at its tenth session (CLCS/32, para. 24) and on the basis of the modalities discussed at the eleventh session (CLCS/34, para. 37). The two coordinators, who are members of the Commission, Mr. Brekke and Mr. Carrera, have already prepared a master plan for the manual and invited, on a widely representative basis, a number of qualified experts from both within and outside the Commission to participate in its preparation. Some modules will be prepared by the two coordinators. The first draft is expected to be completed in September 2003 and the Secretariat anticipates that the manual will be published as a United Nations sales publication. The Commission also discussed the possibility of having another open session in connection with the launching of the manual.

14. The Commission then heard the reports of the chairmen of its committees. The Chairman of the Committee on Confidentiality, Mr. Jaafar, stated that, in view of the absence of any communication on any alleged breach of confidentiality by any

current or former member of the Commission, no meeting of the Committee had been held, as provided for in rule 5 of annex II to the Rules of Procedure.

15. The Editorial Committee met several times during the twelfth session under the chairmanship of Mr. Brekke and proceeded with a review of the basic documents. Mr. Brekke reported to the Commission on the status of the work of the Committee.

16. He stated that the Editorial Committee had met on 28 April with the task of preparing draft documents to align existing documents CLCS/L.3, CLCS/L.12 and CLCS/3/Rev.3. The Secretariat had made available to the Editorial Committee in written form a thorough analysis of the three documents with a view to their alignment and consolidation into a single document. The Chairman of the Editorial Committee, who had been consulted during the Secretariat's preparatory work, proposed that the work of the Secretariat should serve as the basis for the work of the Committee. The Committee agreed to proceed on that basis, but some members expressed concern about making extensive amendments to the Rules of Procedure of the Commission, even though they might not be of a substantive nature, and several members reserved their right to decide at a later stage on the number of documents needed for the alignment and consolidation of the existing three documents.

17. The Committee spent some time considering the single document solution. During that process it became clear that a consensus solution would most likely involve the production of two documents: the Rules of Procedure, with as few changes as possible, and a new document combining the existing modus operandi of the Commission (CLCS/L.3) and the internal rules of procedure of the subcommission (CLCS/L.12). The reasoning behind this solution was that the new, combined document should be a document that described and regulated the conduct of business of the Commission and its subcommission regarding submissions, which might be easily updated based on new experience as it evolved through the handling of future submissions, thereby leaving CLCS/3/Rev.3 subject to less frequent amendments.

18. An open-ended working group with a core group consisting of Commission members A. Albuquerque, L. Awosika, F. Pimentel, A. Jaafar, M. Juračić and the Chairman of the Editorial Committee presented a basic draft combining the existing documents CLCS/L.3 and CLCS/L.12, and also drawing elements from the basic work of the Secretariat. This draft was put forward for the further development of the document in the full Editorial Committee on 30 April. During the deliberations, consensus developed to incorporate in substantial detail experience drawn from the handling of the first submission to the Commission regarding effective internal procedures developed at that stage. The Chairman of the Editorial Committee suggested that the work should concentrate on identifying elements to be included in the document rather than on the detailed wording, and the Committee agreed to that approach. The work entered a phase where the experience of the members of the subcommission for the first submission was outlined for further inclusion in the document. More detail and structure will be communicated to the Chairman of the Editorial Committee during the intersessional period.

19. Mr. Kazmin brought up the issue of the submitting State's right to participate in the proceedings of the Commission at the stage where the Commission has received the recommendations prepared by the subcommission for its consideration. Mr. Kazmin proposed that changes should be made to rule 51 of the Rules of

Procedure and in paragraph 16 of the working draft of the Editorial Committee to accommodate the representation of the submitting State in the proceedings at that stage, notwithstanding the right of the Commission to take final decisions regarding its recommendations in a closed meeting. It was agreed that proposals for the wording for such provisions should be developed during the intersessional period and included in the draft document, on the understanding that the issue would be discussed and a decision would be taken at a plenary meeting of the Commission. Some members of the Editorial Committee had already expressed in that Committee their objections to any changes being made to rule 51.

20. Finally, the Editorial Committee agreed that its Chairman would produce draft versions of the new, consolidated modus operandi and of a minor revision to the Rules of Procedure in the coming intersessional period. This work would be done in close contact with the members through e-mail, and the Chairman would be dependent on extensive input from the other members, especially the members of the subcommission for the first submission. The Commission took note of the report of the Chairman of the Editorial Committee and decided that the Editorial Committee should continue its work during the intersessional period as proposed.

21. Mr. Symonds, as Chairman of the Standing Committee on the provision of scientific and technical advice to coastal States, reported that the Committee had met and considered a number of issues. He noted that to date, there had been no requests by any coastal State for advice. He further recalled that providing scientific and technical advice was one of the two functions of the Commission stipulated in article 3 of annex II to UNCLOS. Issues to be discussed at the Commission level included the nature and possible implications to the Commission of the advice provided by a member of the Commission upon the request of the coastal State.

22. He further informed the Commission that the Committee had discussed various ways to facilitate the role of the Committee. Among other things, the Committee recommended that a list of Commission members should be compiled, accompanied by short biographical notes and a brief statement of expertise. A version of the list would be posted on the web site of the Division for Ocean Affairs and the Law of the Sea.

23. The Commission took note of the report of the Chairman of the Standing Committee on the provision of scientific and technical advice to coastal States and determined that advice provided by a member of the Commission did not commit the subcommission and the Commission when deliberating on the merits of a submission and should not be prejudicial to such deliberation.

24. The Training Committee met under the chairmanship of Mr. Fagoonee. It considered various suggestions and ideas with a view to acquiring more specific knowledge as to which States might be interested in receiving training in preparing a submission and which States might be willing to host training sessions or otherwise contribute to or support such endeavours. The Committee also discussed other issues of a general nature concerning the involvement of the Commission in training, including the idea of convening another open session, possibly in connection with the launching of the training manual and promotion of the Commission's activities. The Committee concluded that the need for and interest in training had already been well established, inter alia, through a number of training courses and seminars held, for instance, in Brazil, India, Malaysia, and the United Kingdom of Great Britain and Northern Ireland. In view of the fact that the organization of training was not

part of the mandate of the Commission (see CLCS/25, para. 11), it was concluded that the major effort in the field of training should be focused on the completion of the training manual by the Secretariat, with the assistance of the members of the Commission who were involved in the project.

25. It was also concluded that the proposal to convene another open session (CLCS/34, para. 39) would continue to be discussed during the intersessional period and at the next session, taking into account the information provided by the Secretariat on the status of preparation of the training manual and its expected date of publication. The Committee also recommended that the Division's web site should be enhanced with special sections devoted to training issues, including a directory of resources. The Commission took note of the report of the Chairman of the Training Committee and requested the assistance of the Secretariat in the preparation of the web pages on the matters of training.

26. Under the agenda item entitled "Other matters", the members of the Commission exchanged information and opinions with regard to recent and forthcoming events, among them the GEBCO Centenary Conference, from 14 to 16 April 2003; the thirteenth Meeting of States Parties to UNCLOS, from 9 to 13 June 2003; the Conference on the Legal and Scientific Aspects of Continental Shelf Limits in Reykjavik, from 25 to 27 June 2003; the Conference on the Morphology and Geological Nature of Deep Seabed and Submarine Elevations in the Arctic Basin, St. Petersburg, Russian Federation, from 29 June to 5 July 2003; and the third ABLOS Biennial Scientific Conference, from 28 to 30 October 2003 at the International Hydrographic Bureau in Monaco. The Commission took note of the Chairman's plans to represent the Commission at the Meeting of States Parties and to inform the Meeting about the progress of the work of the Commission. The Commission also reconfirmed the general understanding that its members participated in international conferences and seminars and published articles in scientific periodicals and magazines in their personal capacity, and that their views did not represent the views of the Commission. It was the responsibility of each member to make a disclaimer to that effect, as appropriate.

27. One of the members of the Commission advanced a proposal for compiling a report on general "lessons learned" during the consideration of the submission of the Russian Federation, in order to preserve a record of internal experience with regard to various procedural, information technology and logistical matters, including data storage and handling, communications with the coastal State and so forth. The report should be kept internally for future reference. Several members recognized the usefulness of such a report, especially for members of the Commission who had not been involved in the subcommission. It was agreed that Peter Croker, in his capacity as Rapporteur of the subcommission that had dealt with the first submission, would coordinate the effort to compile the report on lessons learned.

28. The Chairman drew the attention of the members of the Commission to the provision of General Assembly resolution 57/141 calling upon the United Nations Environment Programme, working within the Global Resource Information Database (GRID) system for data and information management, to expand on a voluntary basis the capacity of existing GRID centres to store and handle research data from the outer continental margin, on a basis to be mutually agreed with the coastal State, and complementary to existing regional data centres. This should be done giving due regard to confidentiality needs and in accordance with Part XIII of

UNCLOS (Marine scientific research) and making use of existing data management mechanisms under the Intergovernmental Oceanographic Commission and the International Hydrographic Organization, with a view to serving the needs of coastal States, and in particular developing countries and small island developing States, in their compliance with article 76 of UNCLOS. The member of the Commission from the State that had originally made the proposal explained its background and goals. He noted that one of the intentions was to foster collaboration among various data centres around the world.

29. The Chairman also informed the members about the efforts to establish a regular process for the global reporting and assessment of the state of the marine environment and about the request addressed by the General Assembly in its resolution 57/141 to the Secretary-General of the United Nations to prepare proposals on modalities for a regular process for the global reporting and assessment of the state of the marine environment, in close collaboration with Member States, relevant organizations and agencies and programmes of the United Nations system, as well as other competent intergovernmental organizations and relevant non-governmental organizations. These proposals are to be submitted to the General Assembly at its fifty-eighth session (resolution 57/141, para. 45).

30. Finally, the Chairman recalled that the next meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea would take place in June 2003 and would discuss the protection of vulnerable marine ecosystems and the safety of navigation, including capacity-building for the production of nautical charts, as well as issues discussed at previous meetings.

31. The Commission also discussed the dates and venue of its next sessions. It was decided that the session scheduled to take place from 25 to 29 August 2003 would be held only if a submission was received in time for its consideration by the Commission pursuant to the Rules of Procedure, that is, by 25 May 2003.

32. It was further decided that two sessions should be held in 2004. One session would be held from 26 to 30 April 2004, followed by two weeks of meetings of a subcommission in the event that a submission was made to the Commission. The other session was scheduled to be held from 30 August to 3 September 2004, also followed by two weeks of meetings of a subcommission in the event that a submission was made to the Commission.

33. Finally, the Commission renewed its expressions of appreciation to the staff of the Division for Ocean Affairs and the Law of the Sea, as well as to the interpreters, translators and other staff for the assistance and services provided during the current session.